

L. JOYCE HAMPERS  
COMMISSIONER

# *The Commonwealth of Massachusetts*

*Department of Revenue*

*Leverett Saltonstall Building,*

*100 Cambridge Street, Boston 02204*

February 8, 1982

Your client owns a condominium unit in a building which was operated as a seasonal motel on Cape Cod for many years under the name of \_\_\_\_\_ Motel, Inc. Presently, the units are rented to persons for periods ranging from one night to one month. They are rented by a resident manager employed by the condominium's management association ("Association"). The manager arranges for linen and maid service which is included in the cost of the rental of the unit. You inquire whether the transfer of occupancy of these units is subject to the room occupancy excise under General Laws Chapter 64G and if so, who must collect and pay over the excise.

The units are rented from approximately June through October. The individual unit owners have little or no personal use of the units at other times of the year. Occupants are obtained by advertising and by referrals made by the unit owners. The rental income is collected by the manager and distributed to each unit owner. You state that neither the Association nor the individual owners are presently licensed by the town Board of Health to operate a motel.

General Laws Chapter 64G, Section 3 imposes an excise upon the transfer of occupancy of any room or rooms in a hotel, lodging house, or motel in Massachusetts by any operator, and requires the operator to pay the excise to the Commissioner when filing room occupancy returns. "Operator" is defined in Chapter 64G, Section 1(d) as

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"any person operating a hotel, lodging house or motel in the commonwealth, including, but not limited to, the owner or proprietor of such premises, lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such hotel or lodging house."

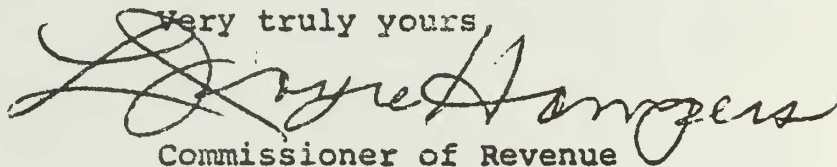
Section 1(c) of General Laws Chapter 64G defines a motel as:

"any building or portion of a building, other than a hotel or lodging house, in which persons are lodged for hire with or without meals and which is licensed or required to be licensed under the provisions of section thirty-two B of chapter one hundred and forty, or a private club."

Chapter 140, Section 32B requires licensing by the board of health of any city or town for any recreational camp, overnight camp or cabin, motel or mobile home park located within such city or town. "Motel" is defined for purposes of Section 32B as any building or group of buildings which provide sleeping accommodations for transient motorists and which is not licensed as an inn (G.L. c. 140, s. 32A).

Based on the foregoing, it is ruled that the transfer of occupancy of these individually owned units is subject to the room occupancy excise under General Laws Chapter 64G. The Association, as operator of the motel, must collect and pay over the excise.

Very truly yours,

  
Commissioner of Revenue

LJH:JD:mf

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